

633
1 BILL No. R-82-03- //

2 RESOLUTION No. R- Widensive

3
4 WHEREAS, the City of Fort Wayne, Indiana ("City") did
5 enter into a certain Agreement for the Construction and Mainte-
6 nance of the Fine Arts Plaza with the Fort Wayne Fine Arts Found-
7 ation, Inc. ("Foundation") for real estate owned by the Foundation
8 within an area bounded by Lafayette Street, Main Street, Barr
9 Street Extended, and the Norfolk & Western Railroad Elevation,
10 copies of which are attached hereto; and

11 WHEREAS, it is in the best interests of all parties
12 to terminate said agreements and to return the said real estate
13 to Foundation.

14 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL
15 OF THE CITY OF FORT WAYNE, INDIANA:

16 SECTION 1. That the Common Council of the City of
17 Fort Wayne enter into a Termination Agreement with the Fort Wayne
18 Fine Arts Foundation, Inc. for the termination of the written
19 Agreements existing between the City and said Fort Wayne Fine
20 Arts Foundation, Inc. for the maintenance and operation of
21 parking facilities on the real estate described, a copy of which
22 said Agreements are attached hereto as Exhibits "A" and "B".

23 SECTION 2. That said termination shall be effective
24 April 1, 1982.

25 SECTION 3. That this Resolution shall be effective
26 upon passage and approval by the Mayor.

27
28 Mark E. G. Smith
29 COUNCILMAN

30 APPROVED AS TO FORM AND
31 LEGALITY MARCH 19, 1982

32 Bruce O. Boxberger
BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by GiaQuinta, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, at _____ o'clock _____.M.,E.S.T.

DATE: 3-23-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>EISBART</u>	_____	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____	_____
<u>SCHOMBURG</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. _____ on the _____ day of _____, 19____.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____.M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this _____ day of _____ 19____, at the hour of _____ o'clock _____.M.,E.S.T.

WIN MOSES, JR. - MAYOR

Read the first time in full and on motion by _____,
seconded by _____, and duly adopted, read the second time
by title and referred to the Committee _____ (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: _____

CHARLES W. WESTERMAN - CITY CLERK

Motion to table Ordinance of Ord. 10-10-10.
Read the third time in full and on motion by _____,
seconded by _____, and duly adopted, placed on its
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>7</u>	<u>1</u>	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>X</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>X</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	<u>X</u>	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	<u>X</u>	_____
<u>SCHMIDT</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: _____

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. _____
on the _____ day of _____, 19____.

ATTEST:

(SEAL)

CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the _____ day of _____, 19____, at the hour of
_____ o'clock _____ M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this _____ day of _____
19____, at the hour of _____ o'clock _____ M., E.S.T.

WIN MOSES, JR. - MAYOR

*Noted for
minutes
April 20*

*Added
by Schmitt*

Gold

BILL NO. R-82-03-11

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON Finance TO WHOM WAS REFERRED AN
ORDINANCE Termination Agreement with the Fort Wayne Fine Arts
Foundation, Inc. for the termination of the written Agreements
existing between the City and Fort Wayne Fine Arts Foundation, Inc.

W. H. H. H. H.

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE ~~WAS~~ PASS.

MARK E. GIAQUINTA - CHAIRMAN

Mark E. Giaquinta

PAUL M. BURNS - VICE CHAIRMAN

JAMES S. STIER

James S. Stier

JOHN NUCKOLS

Samuel J. Talanico

DONALD J. SCHMIDT

7-27-82

CONCURRED IN

DATE

CHARLES W. WESTERMAN, CITY CLERK

TERMINATION AGREEMENT

WHEREAS, the City of Fort Wayne (hereinafter referred to as "City") did enter into a certain agreement with the FORT WAYNE FINE ARTS FOUNDATION, INC. (hereinafter referred to as "Foundation") for the construction and maintenance of the Fine Arts Plaza pursuant to a written Agreement dated October 9, 1975, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the said parties did enter into an Addendum to said Agreement which is attached hereto as Exhibit "B"; and

WHEREAS, the purpose for which the parties entered into said Agreements no longer has the validity that it once had inasmuch as Foundation is desirous of constructing a building on a portion of said real estate; and

WHEREAS, City deems it to be in its best interests to encourage the development of the real estate the subject of said Agreements by the construction of said building; and

WHEREAS, the construction and erection of the building will cause a diminution of the number of parking spaces available on the real estate to the extent that it can no longer operate the parking facility; and

WHEREAS, the parties are desirous of terminating their mutual obligations and liabilities pursuant to said Agreements and to render the same to be of no further force or effect effective April 1, 1982.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

1. The parties do herewith by mutual agreement terminate the Agreements herein referred to as Exhibits "A" and "B" and do release one another from any and all further liabilities or responsibilities in connection therewith.

2. City herewith releases unto Foundation any and all claim which City may have in and to the real estate the subject of said Exhibits "A" and "B", but reserves and retains unto itself all personal property which the City may have placed upon said premises, including parking meters.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of _____, 1982.

CITY OF FORT WAYNE by and through
its Board of Public Works

BY: _____
STEPHEN A. BAILEY, Chairman

BY: _____
BETTY R. COLLINS, Member

BY: _____
ROBERTA ANDERSON STATEN, Member

FORT WAYNE FINE ARTS FOUNDATION,
INC.

BY: _____

BY: _____

BY: _____

BY: _____

175

AGREEMENT FOR THE CONSTRUCTION AND
MAINTENANCE OF THE FINE ARTS PLAZA

WHEREAS, the Fort Wayne Fine Arts Foundation, Inc. (hereafter referred to as "Foundation") owns certain property in Fort Wayne, Allen County, Indiana within an area bounded by Lafayette Street, Main Street, Barr Street extended and the Norfolk & Western Railroad Elevation; and

WHEREAS, the Foundation desires to improve a certain part of said property, described more particularly in the drawings attached hereto, by the construction thereon of the Fine Arts Plaza; and

WHEREAS, the City of Fort Wayne (hereafter referred to as "City") desires to aid the Foundation in said development.

NOW, THEREFORE, said Foundation and City, for the consideration herein set forth, agree as follows:

A. CONSTRUCTION

1. The City will do all things necessary to construct said Fine Arts Plaza in conformance with the specifications and drawings attached hereto, including engineering, bidding, managing, and supervising said construction.
2. The parties now estimate that construction of said Plaza will commence by June 1, 1975 and be completed by September 1, 1975 and that the total cost of said construction will be approximately \$200,000.00.

B. MAINTENANCE

1. The City will maintain, for the duration of this agreement, the parking and parking ingress and egress pavement surface (excluding pedestrian walkways), parking meters, and lighting structures serving said surface.
2. Parking meters will at all times remain the property of the City.
3. The Foundation will maintain all pedestrian walkways, all lighting structures not directly serving the above mentioned parking surface, all green areas including shrubs, trees and any other improvement placed thereon, and all other areas, buildings, monuments or other improvements not listed in paragraph B-1.
4. The Foundation will assume all utility costs incurred in the operation of said Plaza.

5. Any other provision of this agreement notwithstanding, the City shall provide snow removal for the Plaza's parking and parking ingress and egress areas, excluding pedestrian walkways, for the period including 6:00 a.m. to 6:00 p.m. every Monday through Saturday after construction completion and for the duration of this agreement. The Foundation shall assume the duty of snow removal for all pedestrian areas and for other areas of the Plaza if necessary at any time other than the hours of 6:00 a.m. to 6:00 p.m. each Monday through Saturday.

C. ALLOCATION OF REVENUE AND REPAYMENT OF CONSTRUCTION COST

1. The parties agree that since the exact Capital Improvement cost will not be known until after the awarding of the construction contract and final acceptance of the work, the Capital Improvement cost shall be the construction contract price as awarded pursuant to bids by the City plus any additional costs necessary for construction as determined by the parties.
2. The gross revenue from parking meters and leased parking collected by the City during the period of 6:00 a.m. to 6:00 p.m. Monday through Saturday shall be distributed in the following manner:
 - a. The first \$15,000 gross shall be paid to the Fort Wayne Fine Arts Foundation, Inc. for the purpose of deferring a portion of the operating expenses of the Community Center for the Performing Arts.
 - b. The next \$15,000 gross shall be applied against the principal.
 - c. Additional revenue above the \$30,000 outlined in (a) and (b) above shall be applied to interest which shall be less than or equal to 6% of the unpaid balance for the year in which the income is received. Interest shall not be cumulative from year to year.
 - d. Any revenue in excess of (a), (b), and (c) for a given year shall apply to the principal.
3. The capital improvement costs to the City shall be the total construction costs less \$50,000. The \$50,000 shall be paid to the City by the Fine Arts Foundation within ten (10) days after the construction contracts are awarded.
4. The interest rate on the capital improvement costs shall be (less than or) equal to 6% of the unpaid balance. (The interest when less than 6% for year shall not be cumulative from year to year.)

5. The improvement costs plus interest shall be repaid solely from the revenue received from the operation of the parking meters and leased parking.
6. The City will pay the Foundation the sum of \$15,000.00 or the total revenue derived by the City from the Plaza's operation, whichever sum is smaller each year for the duration of this agreement, in quarterly payments.
7. Revenue derived from leases and from metering devices derived from the metering period of 6:00 a.m. to and including 6:00 p.m. each Monday through Saturday shall be collected by the City and used in accordance with paragraphs C-2 and C-3.
8. All revenue collected other than that referred to in paragraph C-2 shall be the property of the Foundation.
9. The City will notify the Foundation in writing at the time all of the provisions of paragraph C-2 have been fulfilled and shall provide an accounting of all funds collected and so applied to the Foundation at any other reasonable time. Upon said notification that the Capital Improvement cost plus all accrued interest has been paid in full, this agreement shall terminate.

DATE: October 9, 1975

CITY OF FORT WAYNE

By:

R. A. Somers
Carl E. O'Neal
Bozky Ann Dault

DATE: _____

FORT WAYNE FINE ARTS FOUNDATION

By:

Henry Manges
W. R. G. Winger
George F. Dodd, Sec.
Don Quinlan

FINE ARTS PLAZA AGREEMENT
ADDENDUM

P-2, C-2: It is agreed that paragraph C-2 shall be satisfied by the City paying quarterly 50% of the gross revenues from the parking revenues of the Plaza. During the month following each calendar quarter, the City shall provide an accounting of gross revenues received and pay 50% of same to the Foundation.

Within 30 days of the end of each calendar year, the City shall render an accounting of gross revenues obtained from the Plaza during the preceding year. Provisions of section C of this agreement shall be complied with and adjustments made consistent therewith.

Inasmuch as the Plaza will be under construction during the summer of 1975 and the parking plaza will be operated for only approximately four (4) months in 1975, it is hereby agreed that the Foundation and the City shall share equally in the gross parking revenues received in 1975. *An accounting and payment will be rendered, as above, and consistent with section C of this agreement except as otherwise stated herein. It is further agreed that paragraph C-6 shall not apply to the year 1975.

** For 1975 the Fine Arts Foundation is to receive a minimum of \$5,440. 9/10*

Date: October 9, 1975

CITY OF FORT WAYNE

By: 

Dr. Jerry D. Boswell, Chairman
Board of Public Works

Date: _____

FORT WAYNE FINE ARTS FOUNDATION

By: 

Mr. Darrell W. Huntley